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February 16, 2010

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**VIA E-MAIL AND OVERNIGHT MAIL**

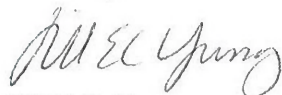
Craig Whitenack, Civil Investigator  
United States Environmental Protection Agency  
Region IX, Southern California Field Office  
600 Wilshire Avenue, Suite 1420  
Los Angeles, California 90017

Re: Requests for Information Pursuant to Section 104(e) of CERCLA for the  
Yosemite Slough Superfund Site, San Francisco, California

Dear Mr. Whitenack:

Enclosed you will find a copy of the responses to the U.S. Environmental Protection Agency's ("EPA's") Requests for Information prepared by our client, Romic Environmental Technologies Corporation ("Romic"), with assistance from us and common counsel for the potentially responsible parties at the Yosemite Slough Superfund Site. The enclosed letter asks EPA to direct any questions regarding Romic's responses to Wayne Kiso, President of Romic. However, we would appreciate being included in all follow-up communications that you may have with Mr. Kiso.

Sincerely,



Jill E.C. Yung  
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

Attachment

JECY



Craig Whitenack, Civil Investigator  
United States Environmental Protection Agency  
Region IX, Southern California Field Office  
600 Wilshire Avenue, Suite 1420  
Los Angeles, California 90017

**Re: Yosemite Creek Superfund Site, San Francisco, CA  
Response to 104(e) Information Request**

This letter responds to the October 15, 2009 request for information ("RFI") of the United States Environmental Protection Agency ("EPA") to Romic Environmental Technologies Corporation ("Romic") with regard to the Yosemite Creek Superfund site (the "Site"). Subject to both the general and specific objections noted below, and without waiving these or other available objections or privileges, Romic submits the following in response to the RFI and in accordance with the February 15, 2010 due date that EPA has established for this response. Because February 15, 2010 was a recognized federal holiday, this response is being submitted on the next business day.

In responding to the RFI, Romic has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. However, the RFI purports to seek a great deal of information that is not relevant to the Site or alleged contamination at the Site. For example, while we understand the basis of the purported connection between Romic and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (the "BAD Site"), certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location in the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polychlorinated biphenyls ("PCBs")." However, certain RFI requests also seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA; thus Romic has limited its review of documents and information to the COCs identified by EPA.

*820 Gessner Road, Suite 800  
Houston, Texas 77024*



As you know, the California Department of Toxic Substances Control ("DTSC") conducted an extensive investigation of the BAD Site and Romic's operations in connection with it. DTSC's investigation included an information request to Romic and the DTSC files include Romic's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Thus, the focus of Romic's identification, review and retrieval of documents has been upon data that has not been previously provided to EPA, DTSC or any other governmental agency that is relevant to the Site.

## **GENERAL OBJECTIONS**

Romic asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. Romic asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law. In the event that a privileged or protected document has been inadvertently included among the documents produced in response to the RFI, Romic asks that any such document be returned to Romic immediately and here states for the record that it is not thereby waiving any available privilege or protection as to any such document.
2. In the event that a document containing CBI or trade secrets has been inadvertently included among the documents provided in response to the RFI, Romic asks that any such documents be returned to Romic immediately so that Romic may resubmit the document in accordance with the applicable requirements for the submission of Confidential Information.
3. Romic objects to any requirement to produce documents or information already in the possession of a government agency, including but not limited to DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and Romic's operations in connection with it. DTSC's investigation included an information request to Romic and the DTSC files include Romic's Response to DTSC's information request. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Notwithstanding this objection, and without waiving it, Romic may produce certain information or documents in its possession, custody, or control that it previously provided to or obtained from government agencies that contain information responsive to the RFI.
4. Romic objects to Instruction 4 to the extent it seeks to require Romic, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." Romic is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information

responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.

5. Romic objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on Romic to supplement these responses. Romic will, of course, comply with any lawful future requests that are within EPA's authority.

6. Romic objects to Instruction 6 in that it purports to require Romic to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of Romic. EPA lacks the authority to require Romic to seek information not in its possession, custody or control.

7. Romic objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in Romic's possession, custody, or control. Romic disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known [by Romic] to exist" but not in Romic's possession, custody, or control.

8. Romic objects to the RFI's definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.

9. Romic objects to the definition of "identify" in Definition 7 to the extent that the definition encompasses home addresses of natural persons. Subject to this objection, the sole remaining Romic employee, Wayne Kiso, is identified by name and corporate address only. EPA can reach Mr. Kiso at 820 Gessner Road, Suite 800, Houston, Texas, 77024.

10. Romic objects to the definition of "you," "Respondent," and "Romic" in Definition 14 because the terms are overbroad and it is not possible for Romic to answer questions on behalf of all the persons and entities identified therein. Notwithstanding this objection, and without waiving it, Romic has undertaken a diligent and good faith effort to locate and furnish documents and information in its possession, custody, and control that are responsive to the RFI.

11. Romic objects to EPA's requests that Romic provide EPA separately information that is contained in documents being furnished by Romic in response to the RFI. Where documents have been provided in connection with a response, information sought by EPA in the corresponding request for information that is set forth in those documents is not furnished separately. To do otherwise would be unduly burdensome.



## RESPONSES TO OCTOBER 15, 2009 EPA INFORMATION REQUESTS

1. *Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.*

### **RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying each of the products manufactured by Romic is not feasible due to Romic's long history as a recycler and treater of off-site generated industrial and hazardous wastes. Romic handled a diverse range of waste streams; the recovered products and treatment residuals arising from Romic's processing of those waste streams was nearly as diverse.

Notwithstanding the foregoing, and without any waiver of its objections, Romic is providing EPA with the following general description of the nature of Romic's business.

Romic has closed down its business operations. Romic was formerly engaged in the business of managing offsite industrial and hazardous waste. Romic received hazardous and nonhazardous wastes generated by others. The wastes handled were primarily organic and/or aqueous in nature. These wastes were stored, treated, processed to recover reusable fractions, and/or shipped offsite to other commercial hazardous waste facilities. Treatment and recovery residuals were shipped offsite to other commercial facilities. Wastewater resulting from treatment activities was discharged to the local publicly owned treatment works (POTW) after it was verified to meet POTW pretreatment standards or shipped offsite.

2. *Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:*

- a. *ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.*
- b. *are/were located in California (excluding locations where ONLY clerical/office work was performed);*
- c. *are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).*

### **RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* location in California, even to locations other than the BAD Site. These other facilities have no nexus with the BAD Site, and thus this request seeks information that is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Romic is providing EPA with certain information and documents that contain information related to Romic's Facilities that shipped drums or other containers to the BAD Site.

Romic was established in 1964. To the best of our current knowledge, Romic's facility at 2081 Bay Road, East Palo Alto, CA 94303, which has operated under the names, "Romic Chemical Corporation" and "Romic Environmental Technologies Corp.", is the only facility that meets the conditions set forth in Question 2, as modified by Romic's objection.

3. *Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facilities") including:*
- a. *the date such operations commenced and concluded; and*
  - b. *the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.*

### **RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, Romic objects to the request in (b.) that it describe "types of work performed at each location over time . . . ." Without an identification by EPA of the types of work it is referring to, it would be virtually impossible, given the broad nature of possible work at various facilities, to describe each and every type of work that was performed at any facility. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Romic is providing EPA with certain information and documents that contain information related to Romic's Facilities that shipped drums or other containers to the BAD Site.

Romic commenced operations in 1964. From that time until October, 2007, Romic was engaged in off-site industrial and hazardous waste management activities, including solvent



recovery, ethylene glycol recovery from waste antifreeze, fuel blending, waste consolidation, waste water pretreatment, and waste storage.

Facility operations did change over time, but the sole remaining employee of the company does not have precise knowledge of all of the changes nor the timing thereof. Detailed documentation of facility operations and changes does not currently exist. Some information concerning facility operations and changes can be drawn from facility permits and the associated permit applications, in particular the hazardous waste facility permits issued by the California Department of Health Services, the California Department of Toxic Substances Control, and U.S. EPA, and the industrial waste water discharge permits issued by the East Palo Alto Sanitary District. EPA may already possess copies of these documents, and to the extent that EPA it is not in possession of these files, they are readily available to EPA.

4. *For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest ("SOI") during the Relevant Time Period that still exist and the periods of time covered by each type of record.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require Romic to describe "types of records." Where documents have been provided in response to this RFI, each and every document regarding SOIs is not also "identified" by describing its contents. Romic further objects to Request No. 4 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Romic has limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Romic is providing EPA with certain information and documents that contain information related to Romic's Facilities that shipped drums or other containers to the BAD Site.

Romic has the following records that may contain information relevant to this question and other questions posed by EPA's RFI:

Manifests documenting receipts of offsite-generated RCRA and non-RCRA hazardous wastes dating from approximately 1989 through October, 2007. (Romic does not have copies of manifests for received wastes prior to 1989).

Outgoing manifests dating back to 1988. (Drum shipments to BAD were not required to be manifested, however, and accordingly were not manifested. Consequently, none of these records pertain to the BAD Site.)

Vendor invoices, incomplete, filed by year and alphabetically by vendor, dating from approximately 1994 through 2007. These records will give an indication of substances purchased by Romic in the years after the Relevant Time Period. These records do not demonstrate Romic's level of usage of Bay Area Drum during the Relevant Time Period.

Electronic records of waste receipts from around 1999 through 2007.

Romic has not located any documents that could be construed as correspondence between it and Bay Area Drum or that show quantities, in terms of drums or volumes, of material that was, or may have been, delivered to the Facility (other than the aforementioned records that Romic has previously provided to DTSC).

5. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COCs at Romic's Facilities and the BAD Site, Request No. 5 purports to seek information relating to Romic's Facilities that is not relevant to contamination at the Site.

Notwithstanding the foregoing, and without any waiver of its objections, to the extent that the answers to this question and questions 6 through 9 can be gathered from the manifests, invoices and receipts identified in the response to question 4, Romic has no staff to mine this information. If, after considering Romic's objections, EPA can nevertheless identify a source for its authority to request the information sought in Request Nos. 5-9, Romic will produce or make the documents identified in question 4 available for EPA's review.

6. *If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.*

**RESPONSE:**

**See Response to Question 5**

7. *If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased, used, or stored at each Facility.*



**RESPONSE:**

**See Response to Question 5**

8. *If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used, or stored at each Facility.*

**RESPONSE:**

**See Response to Question 5**

9. *If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.*

**RESPONSE:**

**See Response to Question 5**

10. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic fuel or transformer oil at Romic's Facilities and the BAD Site, Request No. 10 purports to seek information relating to Romic's Facilities that is not relevant to contamination at the Site.

Notwithstanding the foregoing, and without any waiver of its objections, to the extent that the answers to this question and questions 11 through 14 can be gathered from the manifests, invoices and receipts identified in question 4, Romic does not have staff to mine this information. If, after considering Romic's objections, EPA can nevertheless identify a source for its authority to request the information sought in Request Nos. 10-14, Romic will produce or make the documents identified in question 4 available for EPA's review.

11. *If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.*

**RESPONSE:**

**See Response to Question 10**

12. *If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.*

**RESPONSE:**

**See Response to Question 10**

13. *If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.*

**RESPONSE:**

**See Response to Question 10**

14. *If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.*

**RESPONSE:**

**See Response to Question 10**

15. *Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:*

- a. *Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;*
- b. *Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;*



- c. *State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;*
- d. *Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 15 purports to seek information relating to Romic's Facilities that is not relevant to contamination at the Site.

Notwithstanding the foregoing, and without any waiver of its objections, to the extent that the answers to this question can be gathered from the manifests, invoices and receipts identified in question 4, Romic does not have staff to mine this information. If, after considering Romic's objections, EPA can nevertheless identify a source for its authority to request the information sought in Request No. 15, Romic will produce or make the documents identified in question 4 available for EPA's review.

16. *For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:*

- a. *the type of container (e.g. 55 gal. drum, tote, etc.);*
- b. *whether the containers were new or used; and*
- c. *if the containers were used, a description of the prior use of the container.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to Romic's Facilities that is not relevant to contamination at the Site.

17. *For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the*

*SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Romic further objects to Request No. 17 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 17 purports to seek information that does not exist.

Romic further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Romic has limited its review of documents and information to the COCs identified by EPA.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing objections, Romic was unable to locate any records documenting the shipment of drums or other containers to the BAD site. This is not a surprise, as "empty" containers are not required to be shipped to a reconditioner/recycler on a hazardous waste manifest. There is no requirement to retain shipping papers used to document the shipment of "empty" containers to a reconditioner/recycler.

18. *For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identity all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding



SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the forgoing objections, Romic was unable to locate any records constituting contracts, agreements, or other arrangements with BAD and therefore has nothing to produce in response to this request.

19. *For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Romic further objects to Request No. 19 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 19 purports to seek information that does not exist.

The request is also inconsistent with the RFI. As stated therein, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 19 purports to seek information regarding SHCs that were sent to sites other than the BAD Site.

20. *Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 20 purports to seek information relating to Romic's Facilities that is not relevant to contamination at the Site. Romic further objects to Request No. 20 as it purports to seek information regarding procurement of "Materials" at facilities other than the BAD Site and thus

goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment. Moreover, as noted above, Romic has terminated nearly all of its employees, including employees with historical knowledge of staffing and employee responsibilities. Romic does not have historic employment records covering the Relevant Time Period.

21. *Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:*

- a. *the type of container in which each type of waste was placed/stored;*
- b. *how frequently each type of waste was removed from the Facility; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 21 purports to seek information regarding collection and storage of "any SOIs" at facilities other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, to the extent that the answers to this question can be gathered from the manifests, invoices and receipts identified in question 4, Romic does not have staff to mine this information. If, after considering Romic's objections, EPA can nevertheless identify a source for its authority to request the information sought in Request No. 21, Romic will produce or make the documents identified in question 4 available for EPA's review.

22. *Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:*

- a. *the type of container (e.g. 55 gal. drum, dumpster, etc.);*
- b. *the colors of the containers;*
- c. *any distinctive stripes or other markings on those containers;*
- d. *any labels or writing on those containers (including the content of those labels);*



- e. *whether those containers were new or used; and*
- f. *if those containers were used, a description of the prior use of the container;*

*Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Romic further objects to Request No. 22 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 22 purports to seek information that does not exist.

As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Romic further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Romic has limited its review of documents and information to the COCs identified by EPA. Additionally, Romic objects to Request No. 22 as it purports to seek information regarding containers used to remove each type of waste containing any SOIs from the Facilities and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Romic was unable to locate any records pertaining to shipments from Romic to BAD. Romic does have hazardous waste manifests documenting the shipment of hazardous wastes from its East Palo Alto facility to other authorized facilities; these manifests contain some information about containers with hazardous waste shipped to other off-site facilities, such as a broad categorization of container type (e.g., "DM"= metal drum), but this information may be imprecise and incomplete. For example, container size may be supplied as supplemental information, but is not required to be noted on a manifest. Further, container type codes may not be specific; the code, "DF", may be applied to drums whose material of construction is either plastic or fiberboard.

23. *For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement*

*described. State the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Romic further objects to Request No. 23 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Romic has limited its review of documents and information to the COCs identified by EPA. Additionally, Romic objects to Request No. 23 as it purports to seek information regarding waste generated at any Facilities that contained any SOIs and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the above objections, and as previously explained, Romic was unable to locate any records documenting the shipment of drums or other containers to the BAD site. This is not a surprise, as "empty" containers are not required to be shipped to a reconditioner/recycler on a hazardous waste manifest. There is no requirement to retain shipping papers used to document the shipment of "empty" containers to a reconditioner/recycler.

24. *Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all individuals who currently have, and those who have had, responsibility for Romic's environmental matters at all of Romic's Facilities, including those that have no nexus to the BAD Site, is not feasible due to Romic's long prior history of operations, employee turnover, and, as noted above, the fact that Romic has terminated all of its employees with historical knowledge of staffing and employee responsibilities. Romic does not have historic employment



records covering the Relevant Time Period. To the extent that information responsive to this question can be found in documents filed with DTSC (contingency plans, etc.), EPA can obtain these documents from DTSC.

25. *Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which Romic has ever acquired such drums or containers is not feasible due to Romic's long prior history of operations, employee turnover, and, as noted above, the fact that Romic has terminated all of its employees with historical knowledge not otherwise documented. As previously noted, there is no requirement to retain shipping papers used to document the shipment of "empty" containers.

26. *Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Romic further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Romic has limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Romic did not generally keep its waste streams that contained SOIs separate from its other waste streams.

27. *Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work.*

*Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups. Identifying all such removal and remedial actions and producing the related documents is not feasible due to the long history of Romic's operations, the number of Romic's former locations, and the number of disposal sites utilized by Romic as part of its operations. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Romic further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

28. *Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DTSC conducted an extensive investigation of the BAD Site and Romic's operations in connection with it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. Romic understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Moreover, Romic has not been able to locate any documents that are responsive to question 28 and which were not already produced during DTSC's prior investigation.

29. *Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.*

**RESPONSE:**

In addition to the General Objections set forth above, Romic objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, Romic has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, Romic understands that EPA is already in possession of DTSC's files regarding the BAD Site.

30. *Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.*

**RESPONSE:**

Romic objects to Request No. 30 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Romic has limited its review of documents and information to the COCs identified by EPA. Romic further objects to Request No. 30 as it purports to seek copies of documents containing information responsive to the previous twenty-nine questions. DTSC conducted an extensive investigation of the BAD Site and Romic's operations in connection with it. DTSC's investigation included an information request to Romic and the DTSC files include Romic's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Any questions EPA may have regarding the responses to these information requests may be directed to Wayne Kiso at (909) 625-5057.

Sincerely,  
For Romic Environmental Technologies Corp.,



Wayne Kiso  
President